



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

California Occupational Safety and Health State Plan; Operational Status

Agreement

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notification of revisions to the California State Plan's Operational Status Agreement.

SUMMARY: This document announces a new Operational Status Agreement between the Occupational Safety and Health Administration (OSHA) and the California State Plan, which specifies the areas of State responsibility and delineates continuing Federal responsibilities.

DATE: Effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

California administers an OSHA-approved State Plan to develop and enforce occupational safety and health standards for public-sector and private-sector employers, pursuant to the provisions of Section 18 of the Occupational Safety and Health Act (the OSH Act), 29 U.S.C. 667. The California Occupational Safety and Health State Plan

received initial Federal OSHA approval on May 1, 1973 (38 FR 10717), pursuant to Section 18(c) of the OSH Act (29 U.S.C. 667(c)), and the Division of Occupational Safety and Health of the California Department of Industrial Relations (DIR) was designated as the state agency responsible for administering the State Plan. Pursuant to Section 18(e) of the Act, 29 U.S.C. 667(e), as implemented by 29 CFR 1954.3, OSHA and California DIR entered into an initial Operational Status Agreement (OSA) on October 3, 1989, whereby concurrent Federal enforcement authority was suspended with regard to Federal occupational safety and health standards in issues covered by the State Plan. The 1989 OSA was published in the Federal Register on July 12, 1990 (55 FR 28612). Subsequently, on April 30, 2014, OSHA and California DIR signed a new OSA, which replaced the prior 1989 OSA. The new 2014 OSA was published in the Federal Register on June 2, 2017 (82 FR 25631).

II. Notification of New Operational Status Agreement

On September 15, 2022, OSHA and California DIR signed a new OSA, which replaced the prior 2014 OSA. The new OSA remains largely the same as the 2014 OSA, but includes a few necessary clarifications and corrections, as briefly described herein. First, the 2022 OSA clarifies that Federal OSHA enforcement authority within U.S. military installations applies when the installations' borders are "secured" and access is controlled, but that California DIR continues to have enforcement authority over state and local government employers on such military installations. Second, the 2022 OSA defines the "Federal enclaves" over which Federal OSHA retains enforcement authority, and revises the specific list of recognized Federal enclaves to bring that list up to date. Third, the 2022 OSA clarifies the scope of Federal OSHA enforcement authority over employers operating on Native American Reservations or Trust lands, including that California DIR continues to have enforcement authority over state and local government employers operating on such lands and over Tribal member employers operating outside

of such lands. Fourth, and finally, the 2022 OSA clarifies that the definition of “maritime employment” over which Federal OSHA maintains enforcement authority includes all afloat dredging and pile-driving and similar operations on navigable waters, and all floating drilling platforms on navigable waters.

Effective immediately, Federal OSHA and California DIR will exercise their respective enforcement authorities according to the terms of the 2022 OSA between them. As detailed in the 2022 OSA, Federal enforcement responsibility under the OSH Act will continue to be exercised with regard to: Federal Government employers, including the United States Postal Service (USPS), as well as contractors and contractor-operated facilities engaged in USPS mail operations; private sector employers within the secured borders of all United States military installations where access is controlled; private sector employers within the borders of Federal enclaves, including property where the Federal government reserved jurisdiction when the State of California entered the Union and where Federal properties were acquired from the State of California with the consent of the State legislature; private sector employers and Native American-owned or tribal workplaces within the borders of all U.S. Government recognized Native American Reservations or on lands held in Trust for the various tribes in California; and maritime employment (except marine construction, which the State covers on bridges, and on shore) on the navigable waters of the United States. Federal responsibility will also continue to be exercised with regard to investigation and inspection for the purpose of carrying out the monitoring obligations under Section 18(f) of the OSH Act, 29 U.S.C. 667(f), as implemented by 29 CFR part 1954, and the enforcement of complaints filed with Federal OSHA under the OSH Act’s whistleblower provision, Section 11(c), 29 U.S.C. 660(c). For further information please visit <https://www.osha.gov/stateplans/ca>.

AUTHORITY AND SIGNATURE

Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC, 20210, authorized the preparation of this notice. OSHA is issuing this notification under the authority specified by Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), Secretary of Labor's Order No. 8-2020 (85 FR 58393 (Sept. 18, 2020)), and 29 CFR parts 1902 and 1953.

Signed in Washington, DC.

Douglas L. Parker,
Assistant Secretary of Labor for Occupational Safety and Health.

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